

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Masami SHIRAI et al. Group Art Unit: 2877  
Appln. No. : 10/761,230 Examiner: Sang H. Nguyen  
Filed : January 22, 2004 Confirmation No.: 2038  
For : TARGET FOR PHOTOGRAMMETRIC ANALYTICAL  
MEASUREMENT SYSTEM

REQUEST FOR PRE-APPEAL BRIEF REVIEW

Commissioner for Patents  
U.S. Patent and Trademark Office  
Customer Service Window, Mail Stop AF  
Randolph Building  
401 Dulany Street  
Alexandria VA 22314

Sir:

In response to the Final Official Action dated June 19, 2006, setting a shortened three-month statutory period for response to expire on September 19, 2006, Applicants respectfully request a Pre-Appeal Brief Panel to review and withdraw the outstanding rejection set forth in the above mentioned Final Official Action in view of the herein contained remarks.

REMARKS

The rejection of claims 1 and 18 under 35 U.S.C. § 102(e) as being anticipated by NAKAYAMA et al. (US Patent No. 6,108,497) is improper.

Claim 1 set forth a target for photogrammetric analytic measurement including, inter alia, a first bar and a second bar that are connected to each other and configured to be photographed with an object to provide a photogrammetric analytic measurement. The target further includes at least three standard point members that are fixed on the

first bar and the second bar, and non-reflecting members that are respectively attachable to and removable from said at least three standard points.

In the above-mentioned Final Office Action, the Examiner asserted that the triangular projections 36, 38 and 40 (Figs. 8-9) in NAKAYAMA et al. correspond to the non-reflecting members that are respectively attachable to and removable from the at least three standard point members. The Examiner further asserted that the apexes 36A, 38A and 40A of the triangular projections 36, 38 and 40 correspond to the three standard point members that are fixed on a first and a second bar. However, the projections 36, 38, 40 are integrated with their respective apexes 36A, 38A and 40A, i.e., the apexes are merely the tips of the projections, not distinct members (col. 10, lines 21-24). Therefore, the projections 36, 38, and 40 clearly cannot be attachable to or removable from their respective apexes 36A, 38A and 40A.

Further, since the apexes 36A, 38A and 40A are merely the outer tip portions of the projections 36, 38 and 40, the apexes cannot be "fixed" on the first bar and the second bar. Referring to Fig. 9, relied upon by the Examiner, even if the triangular-plate 34 were considered as a first bar and the frame 32 were considered as a second bar, and the apexes 36A, 38A and 40A were considered as the three standard point members, the apexes 36A, 38A and 40A still cannot be fixed on the triangular-plate 34 or the frame 32.

With respect to the removable members (i.e., triangular projections 36, 38 and 40) being non-reflecting, NAKAYAMA et al. specifically state that "each of the projections 36, 38 and 40 also may be coated with a reflective paint, a fluorescent paint or the like, or the surfaces of each projection 36, 38 and 40 may be covered with a

piece of reflective sheet and so on." See col. 10, lines 25-30 (emphasis added). Therefore, directly contrary to the Examiner's position, the projections 36, 38 and 40 actually serve as reflecting members, not non-reflecting members, as required by the recitations of claim 1. Thus, NAKAYAMA et al. fail to disclose or even suggest non-reflecting members that are respectively attachable to and removable from said at least three standard point members.

In direct contrast, claim 1 clearly recites that "non-reflective members that are respectively attachable to and removable from said at least three standard point members" (emphasis added). For instance, as disclosed in Fig. 7 of the present application, the circular portion 41 is an example of a non-reflective member that is attachable to and removable from a standard point member 31. See Specification, page 30, lines 4-17.

Applicants also note that neither the frame 32 nor the plate 34 in NAKAYAMA et al. (Fig. 9) can be considered as non-reflective members, even if made of potentially non-reflective materials. Claim 1 clearly states that "non-reflective members that are respectively attachable to and removable from said at least three standard point members" (emphasis added). Thus, even if the plate 34 or the frame 32 were covered by or made of non-reflective materials, neither could be a plurality of members. In addition, if the three bars of the frame 32 were considered as non-reflective members, there would be no first bar or second bar on which the three standard point members are fixed.

Therefore, Applicants respectfully submit that NAKAYAMA et al. fail to teach or even suggest non-reflective members that are respectively attachable to and removable

from at least said three standard points. Since the applied reference fails to disclose each and every element recited in independent claim 1, this claim is not anticipated thereby.

Applicants note that in the Advisory Action, mailed September 8, 2006, the Examiner appeared to suggest new grounds of rejection by referencing the circular-shaped light guide plate elements (74 of Figs. 23-24), which the Examiner did not rely upon in the above-mentioned Final Office Action. However, even if consideration of these figures were proper (i.e., without issuance of another office action), they not teach or suggest the elements of claim 1, discussed above. In particular, Figs. 23 and 24 do not show a first bar and a second bar or at least three standard point members that are fixed on the first bar and the second bar. Also, even if the light-guide plate elements 74 were considered non-reflecting members, they are not attachable to and removable from standard point members, but rather are integral with subsequent layers beneath the surface of each of the light-guide plate elements 74. See col. 14, lines 4-23. In this regard, the tenth embodiment is described as similar to the third embodiment (Fig. 9) which, as noted above, does not disclose non-reflecting members that are attachable and removable from standard point members. Therefore, even the newly cited portions of NAKAYAMA et al. do not overcome the deficiencies of the Examiner's rejection.

Claim 18 depends from claims 1. Applicants respectfully submit that, at least since claim 18 depends from claim 1, this claim is also allowable.

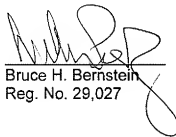
The rejection of claims 16 and 17 under 35 U.S.C. § 103(a) as being unpatentable over NAKAYAMA et al. in view of KANEKO (US Patent No. 6,144,761) is improper.

Applicants respectfully submit that, since claims 16 and 17 depend from claim 1, these claims are also allowable. Also, with respect to claims 16 and 17, the Examiner relied on KANEKO only to teach a target for photogrammetric analytic measurement comprising at least one angle sensor and a transmitter. Therefore, KANEKO does not overcome the deficiencies of the primary reference.

Accordingly, reconsideration of the Final Official Action and allowance of the present application and all of the claims therein is respectfully requested and is now believed to be appropriate.

Should there be any questions regarding this paper or the present application, the Examiner is respectfully requested to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
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